

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2002-124-W/S - ORDER NO. 2002-492

JUNE 28, 2002

IN RE:	Application of Utilities Services of South)	ORDER APPROVING
	Carolina, Inc. for Approval of the Transfer of)	MOTION FOR
	the Water and Sewer Facilities, Territory, and)	PROTECTIVE ORDER
	Certificates of Utilities of South Carolina, Inc.)	AND
	and South Carolina Water and Sewer, LLC.)	CONFIDENTIALITY

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of a Motion for Protective Order and Confidentiality (Motion) filed by Utilities Services of South Carolina, Inc. (Utilities Services or the Company). The Motion was filed pursuant to Regulation 103-840 and Rules 7 and 26(c) of the South Carolina Rules of Civil Procedure. On April 5, 2002, the Company filed an Application for the transfer of water and sewer facilities, territory, and certificates of Utilities of South Carolina, Inc. and South Carolina Water and Sewer, LLC (the Companies). Utilities Services moves for the Commission to issue an Order maintaining the confidentiality of purchase price information filed under seal with the Commission.

Attached to Utilities Services' Application filed with the Commission are redacted copies of the Purchase and Sale Agreements by and between Utilities, Inc. and the Companies. According to the Motion, the Purchase and Sale Agreements filed with the Commission were redacted to maintain the confidentiality of the sale prices and other money figures that relate to the purchase prices. An un-redacted version of the Purchase

and Sale Agreements were simultaneously filed under seal with the Commission's Executive Director, Gary E. Walsh.

Utilities Services moved for an Order maintaining the confidentiality of the purchase price information on the grounds that the information is proprietary and unnecessary for public scrutiny of the merits of the request by Utilities Services for the Commission to allow the transfer of the water and sewer system assets. Utilities Services argues that the prices agreed upon by the Parties to this transaction should not be disclosed to competitors of Utilities, Inc., who is the parent of Utilities Services, or to potential future parties to transactions involving Utilities, Inc. for the purchase of similar systems. Moreover, Utilities Services argues that the purchase price and related payment figures are unnecessary for any person to evaluate whether Utilities, Inc. has the experience, knowledge, and track record that would enable them to successfully operate the subject water and sewer systems.

The Motion continues by stating that the relevant inquiry and standard for consideration of the Application is in the public interest and in the best interest of the customers of the water and sewer systems. Further, the Motion provides that the release of the purchase price information can only serve to disseminate proprietary information and disadvantage Utilities, Inc. in potential future negotiations and transactions relating to similar purchases.

Furthermore, the Motion states that any relevance of the purchase price information to the issue of whether to grant the Application may be weighed by the members of the Commission, who may review and consider the information that was

filed under seal without disclosing the same. In sum, it is Utilities Services' position that the Commission should find that the public interest is not harmed by maintaining confidentiality of the sales prices and other money figures that relate to the purchase prices.

S.C. Code Ann. Section 30-4-40 (Supp. 2001) governs matters that are exempt from public disclosure. Section 30-4-40(a)(5) provides that a public body may but is not required to exempt from disclosure documents of and documents incidental to proposed contractual arrangements and documents of and documents incidental to proposed sales or purchases of property. These documents are not exempt from disclosure once a contract is entered into or the property is sold or purchased, except as otherwise provided in Section 30-4-40. Further, a contract for the sale or purchase of real estate shall remain exempt from disclosure until the deed is executed, but this exemption applies only to those contracts of sale or purchase where the execution of the deed occurs within twelve months from the date of sale or purchase.

Utilities Services requests to maintain the confidentiality of the purchase price and other money figures that relate to the purchase prices in the Purchase and Sale Agreements by and between Utilities, Inc. and the Companies. We find that the redacted information in the Purchase and Sale Agreements may be exempted from public disclosure. The redacted purchase price and other money figures related to the purchase price pertain to documents of proposed contractual arrangements and proposed sales or purchases of property. According to Section 30-4-40(a)(5), this Commission may exempt disclosure of documents of proposed contractual arrangements and proposed

sales or purchases of property. However, once the proposed property is sold or purchased or once the contract is entered into, the document is not exempt from public disclosure. Additionally, we find that the redacted information in the Purchase and Sale Agreements is not required for this Commission to examine whether the transfer is in the public interest and in the best interest of the customers of the water and sewer systems. Certainly, this Commission can examine the financial condition of Utilities, Inc., its operating history in South Carolina, the financial and operating histories of U.S. Utilities, Inc., and other similar public information. If necessary, any relevance of the purchase price information to the issue of whether to grant the Application may be weighed by the members of the Commission, who may review and consider the information that was filed under seal without disclosing the same. We find that maintaining confidentiality of the purchase price information in accordance with Section 30-4-40(a)(5) does not harm the public interest.

IT IS THEREFORE ORDERED THAT:

1. The Motion for Protective Order and Confidentiality of the sales prices and other money figures that relate to the purchase prices in the Purchase and Sales Agreements by and between Utilities, Inc. and the Companies is hereby granted.

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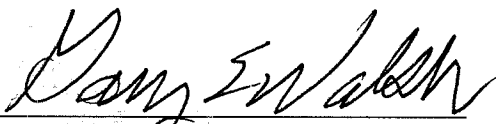
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2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)